

REMARKS

ELECTION/RESTRICTION

The Examiner has required restriction to one of the following inventions under 35 U.S.C. § 121:

- I. Claims 50-55, drawn to an isolated nucleic acid comprising a nucleotide sequence of SEQ ID NO:9, wherein said isolated nucleic acid encodes a polypeptide comprising the amino acid sequence of SEQ ID NO:10; an isolated nucleic acid that hybridizes to the nucleotide sequence of SEQ ID NO:9; vectors comprising said isolated nucleic acids; and host cells comprising said vectors, classified in class 536; subclass 23.1.
- II. Claim 56, drawn to a transgenic animal having cells which harbor a transgene, wherein said transgene comprises the nucleotide sequence of SEQ ID NO:9, classified in class 800, subclass 8;
- III. Claim 57, drawn to an animal inactivated in a genetic locus, wherein said locus comprises the nucleotide sequence of SEQ ID NO:9, classified in class 800, subclass 8;
- IV. Claim 58, drawn to an isolated polypeptide having the amino acid sequence of SEQ ID NO:10, classified in class 530, subclass 350;
- V. Claim 59, drawn to an antibody that immunospecifically binds an isolated polypeptide having the amino acid sequence of SEQ ID NO:10; classified in class 424, subclass 130.1;
- VI. Claim 60; drawn to a method of diagnosing proliferative and differentiative related disorders comprising measuring FBP5 gene expression in a patient sample, classified in class 435, subclass 4;
- VII. Claims 61-69, drawn to a method for screening compounds useful for the treatment of proliferative and differentiative disorders comprising:
a) contacting a compound with a cell or cell extract, wherein said cell or cell extract is expressing/contains a polypeptide having the amino acid sequence of SEQ ID NO:10, or a fragment of said polypeptide, and its substrate(s) and
b) detecting a change in the activity of said polypeptide, classified in class 435, subclass 7.2.
- VIII. Drawn to a method for treating a proliferative or differentiative disorder in a mammal comprising administering to the mammal a compound that modulates the expression of the FBP5 gene so that symptoms of the disorder are ameliorated, classified in class 514, subclass 44;
- IX. Drawn to a method for treating a proliferative or differentiative disorder in a mammal comprising administering to the mammal a compound that modulates the activity of the FBP5 gene product (i.e. FBP5 protein) so that

symptoms of the disorder are ameliorated, classified in class 514, subclass 44;

- X. Drawn to a method for treating a proliferative or differentiative disorder in a mammal comprising administering to the mammal a compound that modulates the expression of the FBP5 gene product (i.e. FBP5 encoding mRNA) so that symptoms of the disorder are ameliorated, classified in class 514, subclass 44.

The Examiner contends that the inventions are distinct, each from the other.

In response to the Restriction Requirement, Applicants hereby provisionally elect, with traverse, to pursue the subject matter of the claims of Group I, claims 50-55, drawn to an isolated nucleic acid comprising a nucleotide sequence of SEQ ID NO:9, wherein said isolated nucleic acid encodes a polypeptide comprising the amino acid sequence of SEQ ID NO:10; an isolated nucleic acid that hybridizes to the nucleotide sequence of SEQ ID NO:9; vectors comprising said isolated nucleic acids; and host cells comprising said vectors.

In addition to election of one of the above inventions, the Examiner required election of one of the following species, presumably in the event that one of Groups VIII-X is elected:

- a) a method for treating breast cancer;
- b) a method for treating ovarian cancer;
- c) a method for treating prostate cancer; and
- d) a method for treating small cell lung carcinoma.

Applicants respectfully submit that election of Group I renders the requirement for the species election moot.

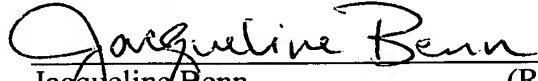
Applicants fully reserve the right to prosecute the subject matter of the non-elected inventions in one or more related applications. In addition, Applicants retain the right to petition from the restriction requirement under 37 C.F.R. § 1.144.

CONCLUSION

Applicants respectfully request that the above remarks be entered and made of record in the file history of the instant application. If any issues remain in connection herewith, the Examiner is respectfully invited to telephone the undersigned to discuss the same.

Respectfully submitted,

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